



WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

January 14, 2014

1401-VS-03

Exhibit 1

**Petition Number:** 1401-VS-03

**Subject Site Address:** Lot 3 of the 32 at 31 Henke Center Secondary Plat

**Petitioner:** Dairy Queen and LOR Corporation

**Representative:** James K. Shinneman, Weihe Engineers on behalf of Dairy Queen  
Adam Hill, LOR Corporation

**Request:** The Petitioner is requesting Variances of Standard from the Westfield-Washington Zoning Ordinance (the "Zoning Ordinance") for Lot 3 of the 32 at 31 Henke Center to allow: (i) a reduction in the minimum setback line from sixty (60) feet to thirty (30) feet along the west (side yard), east (side yard) and south (front yard) property lines (WC § 16.04.030.F.5); (ii) the Buffer Yard requirements to not apply along the north and east property lines (WC 16.06.060); (iii) a reduction in the area of the interior parking lot landscaping from ten percent (10%) to seven percent (7%) (WC 16.06.070); and (iv) the interior parking lot island requirement of unbroken rows of parking spaces to not apply (WC 16.06.070.2.d).

**Current Zoning:** GB (General Business) District, State Highway 32 Overlay Zone

**Current Land Use:** vacant

**Approximate Acreage:** 3.34 acres

**Exhibits:**

1. Staff Report
2. Aerial Location Map
3. 32 at 31 Henke Center secondary plat
4. Site Plan
5. Landscape Plan

**Zoning History:**

|             |  |
|-------------|--|
| 1203-REZ-01 | Rezoning from EI District to GB District       |
| 1212-VS-16  | Variance to exempt property from US 31 Overlay |
| 1304-SPP-04 | Primary Plat                                   |
| 1306-SFP-18 | 32 at 31 Henke Center Secondary Plat           |

**Staff Reviewer:** Andrew P. Murray, Associate Planner



### **Procedural**

This petition will receive a public hearing at the February 11, 2014 Board of Zoning Appeals meeting. If the Board of Zoning Appeals approves the requested variances, then the site would be required to obtain approval of a Development Plan and Secondary Plat prior to the issuance of any construction permits.

### **Petition Background**

This petition originally contemplated the Dairy Queen portion of the Property. However, due to existing site constraints, staff strongly encouraged the Dairy Queen team to coordinate with LOR Corporation, the entity interested in developing the remaining portion, in designing a unified development plan. As a result, a unified site plan and landscape plan are included in the proposal for illustrative purposes and will ultimately allow the Property to function as one synchronized development.

### **Analysis**

The subject property is 3.34 acres +/- in size and is located on the north side of Tournament Trail between Sun Park Drive and Wheeler Road; approximately 375 feet north of State Highway 32 (see Exhibit 2)(the "Property"). The Property is zoned General Business ("GB") District and is currently undeveloped. The properties to the south are zoned GB and the properties to the north, west and east are zoned Enclosed Industrial "EI" District. The Property is located within the State Highway 32 Overlay Zone, which includes increased development and architectural standards.

The Petitioner is requesting four (4) variances, as summarized below, to accommodate the development of a Dairy Queen restaurant and a 16,000 square feet +/-, multi-tenant building (see Exhibit 4).

#### **1. Minimum Building Setback (WC § 16.04.050.F.6)**

The standard for Minimum Setback Lines for the front yard and side yard in the GB District is sixty (60) feet. The Petitioner is requesting a Minimum Setback Line from Wheeler Road and Sun Park Drive (side yard) of thirty (30) feet and a Minimum Setback Line from Tournament Trail (front yard) of thirty (30) feet.

#### **2. Buffer Yard Planting Requirements (WC § 16.06.060)**

The property to the east, north and west are zoned EI District. As a result, a Buffer Yard would be required along these property lines that are a minimum width of fifteen feet (15') and containing a minimum of one (1) evergreen tree and five (5) evergreen shrubs per thirty (30) linear feet. The Petitioner is requesting the Buffer Yard planting requirement not apply along the north and east property lines. The perimeter parking lot landscaping requirements (one (1) tree per thirty (30) linear



feet of parking lot length and one (1) shrub per three (3) feet of parking lot length) would still apply along these property lines.

3. Interior Parking Lot Landscaping (WC § 16.06.070.A.1)

The Property is proposed to have more than fifty (50) parking spaces. As a result, 10% of the vehicular use area is required to be landscaped. The Petitioner is requesting a reduction from 10% to 7% for the Property.

4. Interior Parking Lot Island Landscaping (WC § 16.06.070.A.2.d)

Interior parking lot landscaped areas are required to be dispersed so as to define aisles and limit unbroken rows of parking spaces to a maximum of two hundred (200) feet in length. The Petitioner is requesting that this standard no apply to the Property.

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**Procedural**

The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

**Finding:** It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the GB District permits the proposed retail uses and the resulting parcel will otherwise comply with or exceed the applicable standards of the GB District.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

**Finding:** It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance(s) should not have a negative impact on surrounding properties because: (i) the subject parcel will otherwise comply with or exceed the applicable standards of the GB District; and (ii) the approval of the variance(s) will allow for the development of the Property in a manner substantially consistent with the quality and character of the surrounding area.



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3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

**Finding:** Strict adherence to the zoning ordinance would result in the inability to develop the Property, as proposed. The use is permitted by the zoning ordinance and would comply with all other applicable standards.

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**Recommendation**

Approve 1401-VS-03 with the following conditions:

1. The Petitioner shall record an acknowledgement of variance with the Hamilton County Recorder's Office prior to filing an application for Development Plan review.
2. The Petitioner shall work with Staff, the Department of Public Works and utility companies at the time of Development Plan review to coordinate the installation of additional plantings along the east property line that enhances the streetscape beyond the required perimeter parking landscaping but minimizes the conflict with the existing utility easement.